

REMARKS/ARGUMENTS

Claims 1, 2, 4 to 8, 17 to 22, 24 to 27, 29, 40, 42, 44, 46 and 48 to 55 remain in this application. Claims 3, 9 to 16, 23, 28, 30 to 39, 41, 43, 45 and 47 have been canceled, without prejudice to submitting in a continuing application. Claim 28 has been canceled because it was indefinite. Claims 1, 6, 17, 18, 25 to 27, 44 and 46 have been amended to improve definiteness or more specifically define the invention. Claims 48 to 55 have been added to more definitely describe the invention.

Support for claims 48 to 53 is found in Example 1 on page 8 of the present specification. Support for claims 54 and 55 is found in original claims 2 and 26, for example.

The Examiner has made the election/restriction requirement final. At least some of the claims of non-elected Groups II and III will be presented in a continuing application.

Claims 1, 2, 4 to 8, 17 to 22, 24 to 29, 40, 42, 44 and 46 have been rejected as being anticipated by or, in the alternative, obvious over Hover. As clearly shown in Figure 1 of the present application, which is a perspective view of jaspe agglomerated particles, the jaspe agglomerated particles comprise a plurality of particles having different visual characteristics, such as color, color shade, filler level or average molecular weight. Hover teaches "a blend of differently colored agglomerates" (see the Abstract, for example) and not a blend of agglomerates comprising differently colored particles.

Hover's grinding dust is formed by grinding "differently colored panels or sheets of a PVC composition," col. 2, line 68, to col. 3, line 1, and "the invention can be varied, by the use of only a few different, multicolor-design rough sheets and by ... differing the mixing proportions of the grinding dusts derived therefrom," col. 3, lines 33 to 36. It is the grinding dust, which is formed from the sintered differently colored agglomerates and not multi-colored agglomerates, that yields the multi-color.

At column 3, lines 53 to 58, Hover teaches that blends of abrasion dust and agglomerate to obtain a polychrome character. Again, there is no teaching of an agglomeration of differently colored particles. Similarly, at the top of column 4, Hover states that PVC compositions can be varicolored mixtures of differently colored dusts.

Throughout Hover there is a discussion of abrading differently colored panels or using differently colored agglomerates, but there is no teaching of agglomerations of differently colored particles, i.e. jaspe agglomerated particles. This is also supported by the examples. For instance, in Example 1 differently colored granules, which have been extruded at 170°C, are mixed. In Examples 5 and 6, "four differently dyed agglomerate batches are mixed," col. 11, lines 28 and 29. In Example 15, "[t]wo agglomerate batches in the colors light brown and dark brown were produced ... and mixed in a ratio of 1:1," col. 19, lines 3 to 6.

Similarly, the teachings in Hover of using different filler level, e.g. Example 6, is directed to mixing agglomerates with different filler levels, rather than agglomerates comprising particles with different filler levels.

Independent claims 1 and 17 require the jaspe agglomerated particles to comprise first particle having a first visual characteristic and a second particle having a second

visual characteristic. Since such an agglomerated particle is not taught or suggested by Hover, all of the pending claims are allowable over Hover.

With reference to claims 8 and 22, on page 4 of the Office Action the Examiner takes the position that larger agglomerates are formed between differently colored agglomerates in Hover after the thermal pre-treatment and that the Hover granules agglomerate after the thermal pre-treatment. If the Examiner maintains his rejection of claims 8 and 22, he is respectfully requested to support his position with a cite to the teaching in Hover or, if the position is based on facts within his personal knowledge, by a affidavit in accordance with MPEP Section 707.

Claims 44 and 46 require the particles that are agglomerated to be agglomerated particles. Hover teaches a blend of agglomerated particles and sintered agglomerated particles. There is no teaching of an agglomeration of agglomerated particles. As argued in the previous paragraph, if the Examiner maintains his rejection, he is respectfully requested to support his position with a cite to the teaching in Hover or, if the position is based on facts within his personal knowledge, by a affidavit in accordance with MPEP Section 707.

New claims 48 to 53 require the particles that form the jaspe agglomerated particles to be dry blend particles. Hover teaches away from the use of dry blend particles. See column 2, lines 58 to 62, where Hover states "The thermally pretreated particles utilized according to this invention exhibit a firm grainy structure, as contrasted with dry blends." Therefore, claims 48 to 53 are allowable over Hover for this reason as well.

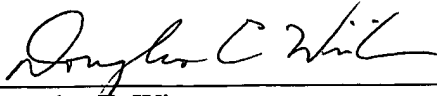
Appln. No. 09/977,170
Amdmt & Resp dated June 3, 2004
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Attorney for Applicants maintains that the claims are in condition for allowance.

Therefore, timely issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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Date



Douglas E. Winters
Reg. No. 29,990
Attorney for Applicants

Armstrong World Industries, Inc.
P.O. Box 3001
Lancaster, PA 17604
(717) 396-4070 (Telephone)
(717) 396-6121 (Facsimile)

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